

APPEAL NO. 032341
FILED OCTOBER 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 14, 2003. The hearing officer resolved the disputed issue by deciding that the compensable injury of _____, sustained by the appellant (claimant) does not extend to include an injury to the lower back, left hip, and right knee. The claimant appealed, disputing the extent-of-injury determination. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed as reformed.

We reform Finding of Fact No. 6, Conclusion of Law No. 3, and the decision to correct a clerical error and change the date therein from September 20, 1999, to _____.

This case centers on the question of whether the claimant's injury to her lower back, left hip, and right knee naturally flowed or naturally arose from the _____, compensable left foot and ankle injury. A follow-on injury may itself be compensable if it is the natural result of the original compensable injury. Maryland Casualty Co. v. Sosa, 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968, writ ref'd n.r.e. per curiam 432 S.W.2d 515). In determining whether the subsequent injury is one that naturally flowed from the compensable injury, it is important to consider whether there was a distinct, nonwork-related activity involved in the subsequent injury, whether a distinctly different body part was injured, the length of time between the injuries, whether there was only a degree of weakening or lowered resistance, and whether there was medical evidence to establish causation. Texas Workers' Compensation Commission Appeal No. 000594, decided May 8, 2000. This is generally a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93672, decided September 16, 1993.

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the hearing officer's decision and order.

To the extent it can be construed that the claimant complained on appeal of ombudsman assistance, we note that the 1989 Act provides for ombudsman assistance to unrepresented claimants. Section 409.041. Our review of the record exposes no mention by the claimant wherein he voiced dissatisfaction with the ombudsman's

assistance and we find no merit in the claimant's general complaint regarding assistance. Texas Workers' Compensation Commission Appeal No. 941243, decided October 26, 1994.

We find no merit in the claimant's contention that the "opportunity for a fair hearing of appeal is clearly weighted in favor of the carrier" simply because the carrier's attorney as well as the hearing officer have a greater access to resource materials.

We affirm the decision and order of the hearing officer as reformed.

The true corporate name of the insurance carrier is **UNITED STATES FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PAUL DAVID EDGE
6404 INTERNATIONAL PARKWAY, SUITE 1000
PLANO, TEXAS 75093.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge